



Agenda Item Number: \_\_\_\_\_

## **BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS**

**Meeting Date:** August 23, 2005

**Department:** Zoning, Building and Planning **Staff Contact:** Catherine VerEecke, Program Planner

**TITLE:** APPEAL: Special Use Permit for Specific Use for Mobile Home Sales, Trailer (mobile home) Service & Storage and Watchman/Caretaker Residence (CSU-40030/CO-50013)

### **COUNTY PLANNING COMMISSION RECOMMENDATION:**

Denial

#### **SUMMARY:**

At the July 6, 2005 public hearing, the County Planning Commission (CPC) voted (5-0; Holcomb excused, Becerra abstained) to recommend denial of the request for a Special Use Permit for a Specific Use for Mobile Home Sales, Trailer (mobile home) Service & Storage and Watchman/Caretaker Residence on Tract A & the southerly portion of Tract B, SP-77-588, located at 10101 Central Avenue NW, on the north side of Central Avenue between 102<sup>nd</sup> & 106<sup>th</sup> Streets, zoned A-1, containing approximately 2 acres. The decision was based on six (6) Findings.

During the July 6, 2005 hearing, the CPC considered the request for a Special Use Permit for Specific Use, primarily for a mobile home repair business. The property has been in violation of the Zoning Ordinance for over a year as the previous Special Use Permit (CSU-93-32), which was issued in 1994 for 10 years, had expired. At the hearing, the CPC noted that the applicant had not addressed the current concerns of staff as well as the terms of the previous Special Use Permit, including the applicant's need to connect to City water and sewer, to abandon the existing septic system and illegal water line, and to relocate an additional, unpermitted dwelling from the site. The CPC had granted the applicant two deferrals since the application was first submitted in August of 2004 to address these issues, and the applicant provided no evidence that he was progressing towards addressing them. The CPC concluded that the use could negatively impact the nearby community as the applicant had failed to meet the criteria of Resolution 116-86 for demonstrating the appropriateness of the use. (See Attachment 2—Notice of Decision and Attachment 3--Previous Notice of Decision).

The applicant is now appealing the CPC recommendation. In the appeal justification (Attachment 4, p.71), the applicant states that he has been willing to follow the instructions of the CPC regarding the connections to City water and sewer. However, he has encountered complications in this effort, including the need to plat his property (in conjunction with the property to the north) as he purchased the property without knowing it was not properly platted. He states the owner of the property to the north has now agreed to join in the replat, and once this is complete he will connect to City water and sewer and abandon the unpermitted systems on the property as required. He would also submit a revised site plan to accurately reflect the activities on the site. He thus requests that the BCC either overturn the CPC decision or remand the case to the CPC for further review.

Staff notes that since the applicant submitted the appeal application, he has not submitted any new materials. Also, if the applicant increases the area of his property as a result of the anticipated replatting action, the boundary of the proposed Special Use Permit and the associated legal description would need to be changed on this current application.

### **Criteria for Evaluating Zone Map Changes and Special Use Permit Applications**

Resolution 116-86 (see Attachment 5) states that the applicant must demonstrate that the existing zoning is inappropriate because:

1. there was an error when the existing zone map was created; or
2. changed neighborhood or community conditions justifies a land use change; or
3. a different land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other County Master Plan, the even though (1) and (2) above do not apply.

<b>ATTACHMENTS:</b>	<b>PAGE</b>
1. County Planning Commission Notice of Decision Letter (July 8, 2005).	3
2. County Planning Commission Information Packet.	5
3. County Planning Commission previous Notice of Decision Letter (November 9, 2005)	69
4. Appeal application and justification.	71
5. Resolution 116-86.	77
6. Site Plan (Commissioners Only).	

## **STAFF ANALYSIS SUMMARY**

### **ZONING, BUILDING & PLANNING DEPARTMENT:**

Staff Recommends Denial of Appeal.